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09/382,374	08/24/1999	JEFFRY JOVAN PHILYAW	PHLY-24.736	5135

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EXAMINER

TESFAMARIAM, MUSSIE

ART UNIT PAPER NUMBER

2162

DATE MAILED: 03/29/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/382,374

Applicant(s)  
Jeffrey Jovan Philyaw et al

Examiner  
Mussie Tesfamariam

Art Unit  
2162



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 12, 2002
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

Art Unit: 2162

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

2. Claims 1-2, 5-11, 13, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Palmer, 5438355.

As per claim 1, Palmer disclose in a system for launching an advertisement on a computer, comprising: a computer having an audio input interface and a display; see fig 2, items 42, 46, he also discloses in an audio output acoustically coupled from a receiver of a broadcast source to said input interface for providing an audio signal having encoded therein an advertisement; see col 1, lines 18-21, 68 - col 2, lines 1-6, col 5, lines 28-30, 61; and a program operable on said computer and responsive to said audio signal output from said receiver broadcast source for reproducing said advertisement upon said display. See fig 1, items 24, fig 2, items 42, col 1, lines 18-20, col 4, lines 32-33, col 6, lines 30-35.

As per claim 2, Palmer disclose in wherein said input interface comprises: a circuit for converting said audio signal output coupled from said receiver of broadcast source into digital form for processing by said computer. See fig 2, col 4, lines 42-54.

Art Unit: 2162

As per claim 5, Palmer disclose in a broadcast or recorded program including said advertisement encoded in an audio component of said program. See col 1, lines 18-21, 68 - col 2, lines 1-6, col 5, lines 28-30, 61

As per claim 6, Palmer disclose in an audible signal for initiating execution by said program in said computer. See the abstract, fig 2, col 4, lines 41-49.

As per claim 7, Palmer disclose in an information selected from the group consisting of product identity, product description, manufacture identity, advertising messages or program execution commands. See col 1, lines 17-20, col 4, lines 65-68, col 5, lines 1-3.

As per claim 8, Palmer disclose in a program for accessing advertising information coupled from receiver of a broadcast source; see fig 1, items 24, fig 2, items 42, col 1, lines 18-20, col 4, lines 32-33, col 6, lines 30-35 he also discloses in means for decoding advertising information encoded in said audio signal; see col 5, lines 60-61, col 6, lines 3-5, fig 2, col 4, lines 42-54. and means for launching said advertisement on said display of said computer. See col 3, lines 66-67.

As per claim 9, Palmer disclose in means for coupling said computer to said display. See fig 2, col 1, lines 11-20.

As per claim 10, Palmer disclose in providing a computer having an audio input interface responsive to an audio signal output from a receiver of a broadcast source and a display coupled to the computer; see fig 1, item 24, fig 2, items 42, 46, col 1, lines 18-20, col 4, lines 32-33, col 6, lines 30-35; receiving the audio signal output having advertising information encoded therein at the audio input interface and decoding the advertising information for processing by the

Art Unit: 2162

computer; see col 5, lines 60-61, col 6, lines 3-5, fig 2, col 4, lines 42-54; and initiating execution of a program on the computer responsive to the audio signal having the encoded advertising information. See the abstract, fig 2, col 4, lines 41-49.

As per claim 11, Palmer disclose in providing an audio input interface for receiving the audio signal output from the receiver of the broadcast source; see fig 1, item 24, fig 2, items 42, 46, col 1, lines 18-20, col 4, lines 32-33, col 6, lines 30-35; converting the received audio signal to a form readable by the computer; see fig 1, items 24, fig 2, items 42, col 1, lines 18-20, col 4, lines 32-33, col 6, lines 30-35; and transmitting converted audio signal information to the computer.

See fig 1, fig 2, col 1, lines 68- col 2, lines 1-3.

As per claim 13, Palmer disclose in receiving a broadcast or recorded program source having encoded therein advertising information selected from the group consisting of product identity, product description, manufacturer identity, advertising messages or program execution commands. See col 1, lines 17-20, col 4, lines 65-68, col 5, lines 1-3.

As per claim 15, Palmer disclose in an interpreting the advertising information received during the receiving step; see the abstract, and launching a display of the advertising upon the display. See col 3, lines 65-67.

Art Unit: 2162

***Claim Rejections - 35 USC § 103***

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer, 5438355 as applied to claim 2 above, and further in view of Aijala et al, 5579124.

As per claim 3, Palmer disclose in a system for launching an advertisement on a computer, comprising: a computer having an audio input interface and a display; see fig 2, items 42, 46.

However, he fails specifically to disclose in an audio circuit having an input coupled to a microphone and out put. Aijala et al disclose in an audio circuit having an input coupled to a microphone and out put. See the abstract, fig 2a, item, 220, fig 6, col 7, lines 64-67, col 13, lines 27-31, 37-41. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Palmer's system such that it will coupled to a microphone. This is because it would improve Palmer's system such that it will broadcast or record a signal via a microphone. He also fails to disclose in an A/D converter coupled to said output wherein an output of said A/D converter is coupled to a system bus of said computer. Aijala et al disclose in an A/D converter coupled to said output wherein an output of said A/D converter is coupled to a system bus of said computer. See fig 2a, items 255, col 1, lines 11-13, col 8, lines 41-44. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Palmer's system such that it will have A/D converter. This is because it would improve Palmer's system such that it will relate to encoding and decoding broadcast or recorded segments such as broadcasts transmitted over the air via cable, video, music or other distributed recorded media.

Art Unit: 2162

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Palmer, 5438355 as applied to claim 1 above, and further in view of Tsai, 5947746.

As per claim 4, Palmer disclose in a system for launching an advertisement on a computer, comprising: a computer having an audio input interface and a display; see fig 2, items 42, 46. However, he fails specifically to disclose in an advertisement coupled with a sound effect selected from the group including clapping, clicking, whistling, audible tones, subaudible tones, superaudible tones or a combination thereof. Tsai, disclose in an advertisement coupled with a sound effect selected from the group consisting clapping, clicking, whistling, audible tones, subaudible tones, superaudible tones or a combination thereof. See fig 5, items 28-30, col 2, lines 44-49, col 6, lines 3-12. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Palmer's system such that it will have sound effect ability. This is because it would improve Palmer's system such that it will have a quality performance of music background system.

Claim 12, contain the same limitations as claim 3, therefore are rejected by the same rationale.

Claim 14, contain the same limitations as claim 4, therefore are rejected by the same rationale.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

Art Unit: 2162

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

*Response to Arguments*

6. Applicant's arguments filed on 03/12/02 have been fully considered but they are not persuasive.

A. Applicant's arguments with respect to claim 1, the lack of Palmer to disclose "a system or method for launching an advertisement on a computer", "audio input interface", "audio output acoustically coupled from a receiver of a broadcast source to audio input interface for providing an audio signal having encoded therein an advertisement." Palmer discloses in a system or method for launching an advertisement on a computer. See col 1, lines 1-21. He also discloses in audio input interface. See fig 2, items 42, 46. He also discloses in audio output acoustically coupled from a receiver of a broadcast source to audio input interface for providing an audio signal having encoded therein an advertisement. See col 1, lines 18-21, 68 -- col 2, lines 1-6, col 5, lines 28-30, 61, col 6, lines 30-35.



Art Unit: 2162

B. Applicant's arguments with respect to the lack of Palmer to disclose "reproducing advertisement" upon display. Palmer clearly teaches in producing TV advertisement and commercials upon display. See col 1, lines 24-32, col 4, lines 31-37. Thus, the system reproduce advertisement upon display.

C. Applicant's arguments with respect to claims 2, 5-9, 11, 13 and 15, the lack of Palmer to disclose the limitations of the claims mentioned above, the rejections are moot. Again Palmer discloses all the limitations of claims 2, 5-9, 13 and 15. See the rejection in the above paragraph.

D. Applicant's arguments with respect to claim 4 the lack of Palmer to disclose in "an advertisement coupled with a sound effect selected from the group consisting of clapping, whistling, audible tones, subaudible tones, superaudible tones or a combination thereof" The Examiner has already mentioned in the above paragraph that Palmer didn't disclose the elements of claim 4; however the secondary prior art disclose the elements of claim 4. See fig 5, items 28-30, col 2, lines 44-49, col 6, lines 3-12. In figure 5, the system has the ability to mix the sound, manage to modify and change it into different sound effect group.

Art Unit: 2162

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mussie Tesfamariam** whose telephone number is **(703)305-1393**. The examiner can normally be reached on Monday - Friday from 8:00 a.m. to 5:00 p.m. If attempts to reach the examiner by telephone are unsuccessful, the **examiner's supervisor, Eric Stamber** can be reached at **(703) 305-8469**.

Any response to this office action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington, D.C. 20231**

or **faxed to:**

**(703)746-7239**, (for formal communications intended for entry)

Or:

**(703)746-7240**, (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

**(703)746-7238**, (For After-final)

**Hand-delivered** responses should be brought to **Crystal park II, 2121 Crystal Drive**

**Arlington, Virginia, (Receptionist).**

**Mussie Tesfamariam**

March 28, 2002

*Steve Gravini for EUS*

**STEPHEN GRAVINI  
PRIMARY EXAMINER**

Application/Control Number: 09382374

Page 10

Art Unit: 2162